431.

SUPREME COURT OF THE UNITED STATES.

No. 204.

THE UNITED STATES, APPELLANTS,

vs.

AUGUSTIN YANSENS.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, print.

Transcript of the proceedings in case No. 266—Agustin Yansens, claimant, vs. The United States, defendant—for the place named "Lomas de la Purificacion."

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

Be it remembered, that on this tenth day of June, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Agustin Yansens, for the place named "Lomas de la Purificacion," was presented and ordered to be filed and docketed, with No. 266, and is as follows, to wit:

(Vide page of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *September 9th*, 1852.

In case No. 266, Agustin Yansens, for the place called "Lomas de la Purificacion," the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Henry J. Thornton, was filed, and is in the words and figures as follows, to wit:

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *Jan'y* 5, 1853.

In the same case, the deposition of Antonio Maria de la Guerra, a witness in behalf of the claimant, taken before Henry J. Thornton, commissioner, was filed, and is in the words and figures as follows, to wit:

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *August* 26, 1853.

This case called: The counsel for the claimant had the evidence argued, submitted, and taken under advisement.

SAN FRANCISCO, *March* 14, 1854.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board, confirming the claim.

(Vide page 31 of this Transcript.)

SAN FRANCISCO, *Aug.* 15, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 34 of this Transcript.)

To the honorable Commissioners to settle private land claims in California:

The petitioner, Agustin Yansens, respectfully shows, that on the 27th day of December, A. D. 1844, Manuel Micheltorena, governor of California, by virtue of authority in him vested, granted to the petitioner the tract of land called "Lomas de la Purificacion," situate in the present county of Santa Barbara, containing three square leagues, a little more or less, according to the respective maps, all of which is fully shown in the original expediente, a certified copy of which is submitted herewith, marked "A," with a translation marked "B."

That the aforesaid grant was afterwards approved by the departmental assembly.

That on the 15th day of April, A. D. 1845, the aforesaid tract of land was duly surveyed and the judicial possession of it given to the petitioner, a copy of which act of survey is submitted herewith, marked "C," with a translation marked "D."

That the said tract of land has not been surveyed by the surveyor general of the United States, but that it was duly surveyed at the time of giving the judicial possession of it, and that its boundaries are fully described in the title-papers, and are well known.

That the petitioner has for more than 10 years, and now is in the quiet, peaceful, and undisputed possession of the aforesaid tract of land.

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the records and minutes in the archives, now in charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioners to confirm to him the aforesaid tract of land.

By his att'ys, HALLECK, PEACHY, & BILLINGS.

Filed in office, June 10th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Pablo de la Guerra.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS, *Los Angeles, Sept.* 9, 1852.

On this day, before Henry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Pablo de la Guerra, a witness produced in behalf of the claimant, Agustin Yansens, whose petition is No. 266 on the docket of the board, and was duly sworn, his evidence being given in the English.

The law agent of the United States attended.

1st question. What is your name, age, and place of residence?

Answer. My name is Pablo de la Guerra; my age is about 32 years; I reside in Santa Barbara, and am a native of California.

2d question. Examine the documents marked No. 11, and attached to this deposition, and say whether you know the signatures, and whether the papers are genuine.

Answer. I am acquainted with the signatures of Manuel Micheltorena, Manuel Jimeno, Agustin Yansens, Juan Pablo Ayala, Nicolas A. Den, Raymundo Carrillo, Antonio Maria Ortega; their signatures to these documents are genuine, and the documents themselves, to the best of my belief, are genuine. U. S. law agent present.

PABLO DE LA GUERRA.

Sworn to and subscribed before me, this 9th of Sept., 1852.

HENRY J. THORNTON, *Com'r., &c.*

Filed in office, Sept. 9, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Anto. Ma. de la Guerra.

SAN FRANCISCO, *Jan'y 5th*, 1853.

On this day, before Com. Henry J. Thornton, came Antonio Maria de la Guerra, a witness in behalf of the claimant, Agustin Yansens, petition No. 266, and was duly sworn, his evidence being interpreted by the secretary.

My name is Antonio Maria de la Guerra; my age is 27 years. I was born in Santa Barbara, and live there now.

I know the rancho called "Lomas de la Purificacion," claimed by Agustin Yansens; it is situate in the county of Santa Barbara. Yansens occupied this land, in 1845, with cattle, horses, and his servants, and moved his family there in 1846. They live there now.

ANT. MA. DE LA GUERRA.

I acknowledge due notice.

R. GREENHOW,
Ass't Law Agent U. S.

Sworn and subscribed before me, this 5th Jan'y, 1853.

HENRY J. THORNTON, *Com'r, &c.*

Filed in office, Jan'y 5th, 1853.

GEO. FISHER, *Sec'y.*

1 S. D. K.

Espediente promovido por D. Agustin Yansens en solicitud del parage conocido con el nombre de "Lomas de la Purificacion."

No. 409.

[2 S. D. K.]—Sello Cuarto, Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el departamento de las Californias, p'a los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

Ex'mo S'or Gobernador y Com'te G'ral Dn. Manuel Michelt'a:

Agustin Yansens, originario de Bruselas y estableceder en la Republica Mejicana 18 años; casada con hija del paiz avecindado en este lugar de S'ta Barbara, con la justificacion de V. E. comparesco y digo, que teniendo un numero de ganado mayor, caballada care y siendo de un terreno proprio para fomentarlo suplico a V. E. se sirba concedermo tres setios para laborios y prestiadero cuyo terreno se haya en la mision de S'ta Ynez, obligandome con la miscion á no perjudicar algunas uses q. se hayan alsudas y permitir ganado ó caballada q. la micion quiera prestonar ó metes interia permanesca la decha micion. Siendo sus colindantes los Ssrs. Dn. Raimundo Carrillo pr. el S. E., por el N. el colegio episcopal, por el E. finado Joaquin Vella, y por el S., la cuesta o sierra de S'n José, segun la demostrado en el diseño que devidamente acompano.

Por tanto, a V. E. suplico se sirva decretar como pedo en lo que recibire gracia y justicia. Juro no sir de malicea, &c.

S'ta Barbara, Julio 29, de 1844.

[3 S. D. K.] Ex'mo S'or. AGUST'IN YANSENS.

Como dispone el ex'mo S'or Gobernador para la precedente instancia, al M. R. P. M'ntro de S'ta Ynez, para que se sirva informar sobre su contenido.

Monterey, Ag'to 21, de 1844.

MAN'L JIMENO.

MONTEREY, *Ag'to* 14, *de* 1844.

Ynf'l el S. s'rio del despacho tomando previam'te los cera q. necesarios al efecto. MICHELT'A.

Ex'mo S'or Gobernador:

He ido a reconocer el terreno que se pretendo, y he visto q. case todo el se compone de lomas elevadas en donde la mision solo tiene algunos usos alsadas y no mas, por consig'e me pance que en los terminos, que lo pedo el S'or Yanse si le puede conceder.

S'ta Ynez, Oct'r 7, de 1844.

Fr. JOSE JOAQUIN JIMENO.

Ex'mo S'or Gobernador:

Segun el informe que anteceda de R. P. ministro de S'ta Ynes, parece que no hay inconveniente alguno para que se le conceder al S'or Yansen el terreno que solicita. Pero V. E. dispondra lo que estiene por justo.

Monterey, Deciembre 27, de 1844.

MAN'L JIMENO.

MONTEREY, *D'bre* 28, *de* 1844.

Espedase en los terminos q. se pede e informar arriba.

MICHELT'A.

[*For map see original, between pages* 8 *and* 9.]

6 S. D. K.

El ciudadano Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante G'ral de la plana major, del mismo gobernador, comand'te gen'l é inspector del departamto. de las Californias.

Por cuanto D. Agustin Yansens, Mejicano por naturalizacion, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Lomas de la Purificacion, colindante con el rancho del coligio de Sta. Ynes, con el de Dn. Raimundo Carrillo, con el del finado Joaquin Villa y con la Sierra de San José; practicados previamente las diligencias y averiguaciones conservientes segun lo dispuesta por leyes, y reglam'tos usando de la facultades que me son conferidos á nombre de la nacion Mejicano, ha veindo en concederle el terreno mencionada declarandole la propiedad. de el por las presentes letras sugetandose a la aprobacion de la Ex'mo Asemblea Departamental y bajo las condiciones siguientes: 1o. No podra venderlo, enagenarlo ni hipoticarlo, imponer ciusos, vinculo franza, ni otro gravemen alguno ni aun podra danarlo. 2o. Podra sercarlo sin prejudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente destinando el uso ó cultivo que mas le acomodo pero dentro de un cino fabricara casa y estara habitado. 3o. Solicitara del jues respectivo que le de la posesion juridica en vertud de este despacho por de las el cual se demarcaral los linderos en cuyos limites pondra á mas mojoneras, algunos, arboles, frutales ó silvestres de algun utilidad.

[7 S. D. K.]

4o. El terreno de que se hace donacion es de tres sitios, de ganado mayor poco mas ó menos segun explica el diseno respectivo. El juez que dire la posecion lo hara meder conforme á ordinanza quedando el sobriente que resulta á la nacion para los usos convenientes. 5o. No impedora por muy un motivo que los bienes de la Miscion de Santa Ynez, pastorien por d'ho terreno. 6o. Se contraviene á estas condiciones pedera su dicho al terreno y suá denunciable por otro. En consequencia mundo que serviendo de titulo el presente y tenendose por firme y valideio, se tome razon de el en el libro á que corresponder, y se entregar al interesado para su resguardo y demas fines. Dado en Monterey, a veinte y seite de Decembre, de mil ochocientos cuarenta y cuatro—queda tomada razon de este despacho en el libro respectivo, a fojas 13.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory, or Department of Upper California, do hereby certify that the seven preceding and hereunto attached pages of tracing paper, numbered from one to seven inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., the 8th day of June, 1852.

SAM'L D. KING, *Sur. Gen'l, Cal.*

Filed in office, June 10th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Stamp Fourth, Two Reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

(Signed) PABLO DE LA GUERRA.

(Signed) MICHELTORENA.

[Seal of Custom-house.]

Translation of Espediente.

To his Excellency, the Governor and Commanding General Don Manuel Micheltorena:

I, Agustin Yansens, a native of Brussels, and established in the Mexican republic about eighteen years, married to a woman of the country, and resident in this place of Santa Barbara, before your excellency's justification, appear and say, that having a number of large cattle and horses, and being in want of a proper land for their encouragement, I pray your excellency to have the goodness to grant me three square leagues for cultivation and pasture land, which land is situated in the mission of Santa Ynez; I binding myself not to injure some cattle of the mission which are now wild, and also to permit any cattle or horses which the mission may wish to pasture there or put on the land while said mission shall endure. Its colindantes being Don Raymundo Carrillo on the S. E.; on the north the Episcopal college; on the east the deceased Joaquin Villa; and on the south the hill or sierra of San José, as is shown on the map which I duly transmit herewith. Wherefore, I pray your excellency to be pleased to decree as I ask, in which I will receive favor and justice.

I swear that this is not done with evil intent, &c.

Santa Barbara, July 29th, 1844.

(Signed) AGUSTIN YANSENS.

As directed by his excellency the governor, let the present petition be passed to the very reverend father, minister of Santa Ynez, that he may have the goodness to report upon its contents.

Monterey, August 21, 1844.

(Signed) MANUEL JIMENO.

MONTEREY, *Aug.* 14, 1844.

Let the Secretary of State report, taking just such steps as he may think necessary for the purpose.

(Signed) MICHELTORENA.

To his Excellency the Governor: I have been to examine the land which is asked for, and I have seen that almost all of it consists of high hills, where the mission has only a few wild cattle and nothing more; consequently I think that it may be granted to Señor Yansen in the terms in which he asks for it.

Santa Inez, October 7th, 1844.

(Signed) FRA. JOSE JOAQUIN JIMENO.

To his Excellency the Governor: According to the foregoing report of the reverend father, minister of Santa Ynez, it appears that there is no objection to there being granted to Señor Yansens the land which he asks for, but your excellency will decide as you may think just.

Monterey, December 27th, 1844.

(Signed) MANUEL JIMENO.

Monterey, *December 28th*, 1844.

Let it be issued in the terms in which it is asked for and as reported above.

(Signed) MICHELTORENA.

Citizen Manuel Micheltorena, general of brigade of the Mexican army, adjutant general of the staff of the same, governor, commanding general and inspector of the department of the Californias: Whereas Don Augustin Yansens, a Mexican by naturalization, has, for his own personal benefit and that of his family, petitioned for the land known by the name of *Lomas de la Purificacion*, bounded by the rancho of the college of Santa Ynez, by that of Don Raymundo Carrillo, by that of the deceased Joaquin Villa, and by the sierra de San José, the proper measures and examinations being previously made as required by laws and regulations, using the faculties conferred on me in the name of the Mexican nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the most excellent departmental assembly, and under the following conditions:

1st. He may not sell it, alienate or mortgage it, subject it to any tax, entail, pledge, or other incumbrance, neither can he give it away.

2nd. He may inclose it without prejudice to the crossings, roads and servitudes, and enjoy it fully and exclusively, making such use or cultivation of it as may best suit him, but within one year he shall build a house and it shall be inhabited.

3rd. He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries will be marked out, in the limits of which he shall place, besides the bounds, some fruit or forest trees of a useful character.

4th. The land of which donation is made is three square leagues, a little more or less, as shown by the respective map; the magistrate who

may give the possession will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses.

5th. He will not on any account prevent the claimants of the mission of Santa Ynez from pasturing on said land.

6th. If he contravene these conditions, he will lose his right to the land, and it will be subject to denouncement by another person. In consequence I order that this present serving him for a title, and being held as firm and valid, note be made of it in the corresponding book, and it be delivered to the party interested for his security and other purposes.

Given in Monterey, on the twenty-seventh of December, one thousand eight hundred and forty-four.

Note has been made of this title in the proper book on page 13.

Filed in office, June 10th, 1852.

GEO. FISHER, *Secretary*.

Doc. No. 11, *annexed to the Deposition of P. de la Guerra.*

Sello Primero, Ocho Pesos.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el departamente de las Californias, pa. los años de mil ochocientos cuarenta y mil ochocientos cuarenta y cinco.

MICHELTORENO. PABLO DE LA GUERRA.

[L. S.]

El Ciudadano Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante General de la plana mayor, del mesmo Gobernador, Comandante G'ral é Ynspector del departamente de las Californias.

Por cuanto D. Agustin Yansens, Mejicano por naturalizacion, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Lomas de la Purificacion, colindante con el rancho del coligio de Sta. Ynez, con el D. Raymundo Carrello, con el del finado Joaquin Villa y con la Sierra de San José; practicadas las diligencias y averiguaciones conservientes segun lo dispuesto por leyes y reglamentos usando de las facultados que me son conferidas a nombre de la nacion Mejicana, he bruedo en concederle el terreno mencionada declarandole la propiedad de el por las presentes litras sugetandose a la aprobacion de la Ex'ma Asamblea departmental, y bajo las condiciones siguientes:

1a. No podrá venderlo, enagenarlo ni hipotecarlo imponer cinco, vinculo, fianza ne otro gravamen alguno ni aun podra donarlo.

2a. Podrá sercarlo sin perjudicar las travesias caminos y servidumbres; la disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le recomode pero dentro de un año fabricara casa y estara habitada.

3a. Solicitara del juez respectivo q'l le de la posescion juridica en vertud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mojoneras algunos, arboles, frutales, ó silvestres de algun utilidad.

4a. El terreno de que se hace donacion es de tres setios de ganado mayor, poco mas o menos segun espleca el deseno respectivo. El juez que dire la posesion lo hara medir conforme á ordinanza quedando el sobrante que resulte a la nacion para los usos convenientes.

5a. No impedira por ningun motivo que los bienes de la miscion de Sta. Ynez pastorien por d'ho terreno.

6a. S contraviniere a estas condiciones pudera su derecho al terreno y sera denunciable por otro.

En consequencia mando que serviendole de titulo el presente y teniendose por firme y validero, se toma razon de el en el libro a que corresponda y se la tregue al enteresado para su resguardo y demas fines. Dado en Monterey, a veinte y siete de Deciembre, de mil ochocientos cuarenta y cuatro.

MAN'L MICHELT'A.
MANUEL JIMENO,
S'cro del Despacho.

Que du tomada razon de este despacho en el libro respectivo á fojas 13.

JIMENO.

[*For map see original, between pages* 18 *and* 19.]

1845.

Posecion Judicial en favor de D. Agustin Yansens del parage conocido con el nombre de la Purificacion.

S'or Alcalde 1o. de S'ta Barb'a:

Agustin Yansens, viceno de este puerto aute la justificacion de V. comparesco y digo q. habiendo obtenedo la concesion in propiedad del terreno conocido con el nombre de Lomas de la Purificacion por justo titulo expedido á mi favor, con f'ha 27 de D'bre de 1844, por el Ex'mo S'r Gober del departam'to, á V. suplico se sirva darme la posecion juridica de estilo con areglo á d'ho titulo cuyo documento acompano subiendose admi'tor esta en papil comun por no haler del sillado q. corresponde; juro le necessario, &c.

Sta. Barb'a, Ab'l 12, de 1845.

AGUSTIN YANSENS.

STA. BARB'A, 13 *de Ab'l, de* 1845.

En virtud de la antecedente solicitud procedase por me el presente juez á la medicion senárlamiento de linderos y posesion judicial del terreno de las Lomas de la Purificacion, q. solicita el interesado en este espediente con areglo á los documentos q. acompanà senalando pa. efectuarlo el dia quince del pres't Ab'l, pa. lo q. S. cetaran con boleta

de comparendo á los colindantes. Asi yo el Alcalde 1o. del Partido de Sta. Bab'a, lo mande, decrete y firme, actuando pr. receptona con testigos de asist'a, por falta de escribano nacion'l y publico, de q. doy fé.

NICOLAS A. DEN.

Asist'a: RAYM'DO CARRELLO,
Asist'a: JUAN P. AYALA,
ANT'O M'A ORTEGA.

En la f'ha presente D. Agustin Yanse se le notifico el auto q. antesede y de el entendido dyo q. lo hallo y se da por cetado y lo firmo con migo y los de me asist'a, de qe. doy fé.

NICOLAS A. DEN.

Asist'a: RAYM'DO CARRELLO,
Asist'a: JUAN P. AYALA,
ANT'O M'A ORTEGA.

En la misma f'ha se libraron los boletas q. se manden en el primer provido y para q. conste por diligencia lo rubrique.

RUBRIC.

En el rancho de la Purificacion á los quince dias del mes de Abril, de ochocientos cuarenta y cinco en cumplem'to de la cita librada a los colindantes del espresado rancho, concurrio D. Raym'do Carrello y D. José de los Santos Abila, apodarado del R. P. W. José Jimeno por parte del rancho del colegio seminareo, y entratidos de q. se heba á proceder á la mediceon señalamianto de linderos y posecion del terreno de las Lomas de la Purificacion, a favor de D. Agustin Yansen dejeron quedar entendidos y para constancia lo firmaron con migo y los de me asist'a, de que doy fé.

NICOLAS A. DEN,
JOSE DE LOS SANTOS ABILA.

Asist'a: RAYM'DO CARRELLO,
Asist'a: JUAN P. AYALA,
ANT'O M'A ORTEGA.

En segunda yo el juez de estos autos, nombre por mediadores en la presente posecion á D. José M'a Valenzuela y D. Antonio Rodriguez, quienes prebia la aseptacion y juram'to prosederan al desempeno de su encargo, y para constancia lo pongo pr. diligencia q. firmo con los de mi asisten'a, de q. doy fé.

NICOLAS A. DEN,
JOSÉ M'A VALENZUELA,
ANTONIO RODRIGUEZ.

Asist'a: RAYM'DO CARRELLO,
JUAN P. AYALA,
ANT'O M'A ORTEGA.

En la f'ha y en el espresado rancho se les notifico el auto q. anteseda á D. José M'a Valenzuela y D. Antonio Rodrig'z, y entendidos de el

dejeron q. aseptan y aseptaran d'ho encargo de medidores y juraron por Dios nuestro Señor y una señal de Cruz, de usarlo, fiel y legalmente, sindolo ni fraude contra persona alguna, y lo firmaron con migo y los de me asistencia, de q. doy fé.

NICOLAS A. DEN,
JOSE M'A VALENZUELA,
ANTONIO RODRIGUEZ.

Asist'a: RAYM'DO CARRELLO,
JUAN P. AYALA,
ANT'O M'A ORTEGA.

Yncontinente yo el referido alcalde mando traire a mi presencia un cordel con q. se an de medir las tierra, de d'ho rancho y q. los medidores lo medan de á cincuenta varas lo q. firmo con los de mi asistencia, de q. doy fé.

NICOLAS A. DEN,
JOSE MA. VALENZUELA,
ANTONIO RODRIGUEZ.

Asist'a: RAYM'DO CARRILLO,
JUAN P. AYALA,
ANT'O MA. ORTEGA.

En segunda y en presencia de mi el espresado alcalde los medidores mencionado, tomaron un cordel de cañamo y con una vera de medir usual Mejicano, medirea cincuenta vueces p'a hacer, lo referido medicion, y para conste lo rubrique.

RUBRIC.

En la misma fha y en el repetido rancho siendo como los tres de la tarde, yo el espresado alcalde para proceder a la medicion de tierra q. se ha de haser a D. Agustin Yansen, mando a los medidores nombrados, se ponyan en el Arroyo del Güijote, q. sirbe de lindero a D. Raym'do Carrillo, y puestos en d'ho Arroyo se cominso la medida tendiendo el cordel rumbo al oeste, y se medieron triscientos cordeles de a cincuenta varas en donde consta un arbol, con algunas señales, q. se le hecieron con acha, q. serbe de mojonera, y luigo se prosequia la medida tendiendo el cordel de el no q. serbe de lindero al colegio seminario al pu de lá sierra rumbo al sur, y se medieron cincuenta cordeles, de a cincuenta varas por lo q. declararon dhos medidores tenir dho rancho de la Purificacion tres leguas de largo y media legua de ancho acompaniendo, a este espediente el titulo de consecion, tiendo de adverted q. d'ho terreno es my diriguel en lo ancho de el, y pa. constan'a lo firme por auto con los testigos de asistencia, de q. doy fe.

NICOLAS A. DEN,
JOSE MARIA VALENZUELA,
ANTONIO RODRIGUEZ.

Asist'a: RAYM'DO CARRILLO,
JUAN P. AYALA,
ANT'O MA. ORTEGA.

En el referido, rancho a la Purificacion y el mesmo dia, mes y año, D. Agustin Yanse, vecino del puerto de Sta. Barbara, acompanado del alcalde y testigos de estos autos dijo, que abiendose medido los tierras de este rancho segun consta en el auto anterior tomaba y toma la verdadera y corporal fonscion de dha tierras medidas, pues le pretension, con justo titulo q. obtiene de la concesion q. de ella, le hizo el Ex'ma S'r Gob'or constitucionel del departam'te, Don Manuel Micheltorena, con fha veinta y siete de Decembre, de mil ochocientos cuarenta y cuatro, entro y pareo por ella, cerranco yerbas, esparcio pieñades de tierra, rompeo ramas de los arboles, e hizo otas demonstraciones y actos de posecion en señal de la q. dijo tomaba de dhas tierras, y yo dicho alcalde mande q. desde entouses lo triburan y reconocieron por verdadero senor y poseedor de ellas.

De todo lo espresado pedio d'ho D. Agustin Yansen, q. para memoria de lo venedero y conserbacion de sus derechos le fuese estendidos por mi el respectivo alcalde sua constancia, y lo firmo con migo y los de mi asistencia, de q. doy fé.

NICOLAS A. DEN,
AGUSTIN YANSENS.

Asist'a: RAYM'DO CARRILLO,
JUAN P. AYALA,
ANT'O MA. ORTEGA.

Filed in office, Sept. 9th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Translation of Judicial Possession.

To the 1st Alcalde of Santa Barbara:

I, Agustin Yansens, a resident of this port, before your justification, appear and say: that having obtained the grant in fee of the land known by the name of "Lomas de la Purificacion," by a just title issued in my favor on the 27th of December, 1844, by his excellency the governor of the department, I pray you to have the goodness to give me the judicial possession in form in accordance with said title, which document I transmit, having the goodness to admit this on common paper for want of that of the corresponding stamp. I swear what may be necessary, &c. Santa Barbara, April 12th, 1845.

(Signed) AGUSTIN YANSENS.

SANTA BARBARA, *April* 13, 1845.

In virtue of the foregoing request, I, the present magistrate, will proceed to the measurement, making of boundaries and judicial possession of the land of "Las Lomas de la Purificacion," which the person interested in this espediente requests, in conformity with the documents which he transmits, designating for that purpose the fifteenth day of this month of April, for which the colindantes will be summoned by written notices. Thus I, the first alcalde of the partido of Santa Barbara, ordered, decreed, and signed, acting in virtue of my office, with

assisting witnesses, for want of a national notary public, to which I certify.

(Signed) NICHOLAS A. DEN.

Assisting witnesses:

(Signed) JUAN PABLO AYALA,
" ANTO. MA. ORTEGA,
" RAYMUNDO CARRILLO.

On the same date, present Don Agustin Yansens, he was notified of the foregoing order, and having understood it, he said that he heard it, and acknowledged notice, and signed this with me, and those of my assistance, to which I certify.

(Signed) NICOLAS A. DEN.

Assisting witnesses:

(Signed) JUAN P. AYALA,
" ANTONIO MARIA ORTEGA,
" RAYMUNDO CARRILLO.

On the same date, the summons ordered in the first decree were issued, and in testimony, I sign it in rubric.

(Rubric of N. A. Den.)

In the rancho of "La Purificacion," on the fifteenth day of the month of April, eighteen hundred and forty-five, in compliance with the summons issued to the colindantes of the aforesaid rancho, then came Don Raymundo Carrillo, and Don José de los Santos Avila, attorney in fact of the Rev. Father Fra. José Jimeno, on the part of the rancho of the Seminary College, and having understood that the measurement, marking of boundaries, and possession of the Lomas de la Purificacion, were about to be proceeded to in favor of Don Agustin Yansens, they said that they understood it, and in testimony they signed this with me and those of my assistance, to which I certify.

(Signed) NICOLAS A. DEN,
(Signed) JOSE DE LOS SANTOS AVILA,
(Signed) RAYMUNDO CARRILLO.

Ass'tg witnesses:

(Sgd) JUAN P. AYALA,
(Sgd.) ANTO. MA. ORTEGA.

In continuation, I, the magistrate of these acts, appointed as measurers in the present possession, Don José Maria Valenzuela and Don Antonio Rodriguez, who, after the acceptance and oath, now proceed to the discharge of their office, and in testimony I make official note of it, which I sign with those of my assistance, to which I certify.

(Sgd.) NICOLAS A. DEN,
(Sgd.) JOSE MA. VALENZUELA, x
(Sgd.) ANTONIO RODRIGUEZ.

Assisting witnesses:

(Sgd.) JUAN P. AYALA,
(Sgd.) ANTO. MA. ORTEGA,
(Sgd.) RAYMUNDO CARRILLO.

On the same day, and in the aforesaid rancho, the foregoing order was made kuown to Don José Maria Valenzuela and Don Antonio Rodriguez, and having understood it, they said that they accepted, and they did accept said office of measurers, and they made oath, by God our Lord and a sign of the cross, to use it faithfully and legally, to the best of their knowledge and understanding, without deceit or fraud against any person; and they signed it with me and those of my assistance, to which I certify.

(Sgd.) NICOLAS A. DEN,
(Sgd.) JOSE MARIA VALENZUELA, x
(Sgd.) ANTONIO RODRIGUEZ.

Asstg. witnesses:

(Sgd.) JUAN P. AYALA,
(Sgd.) ANTO. MA. ORTEGA,
(Sgd.) RAYMUNDO CARRILLO.

In continuation, I, the said alcalde, ordered that there be brought to my presence a rope with which to measure the lands of said rancho, and that the measurers mark off on it fifty varas, which I sign, with those of my assistance, to which I certify.

(Sgd.) NICOLAS A. DEN,
(Sgd.) JOSE MARIA VALENZUELA, x
(Sgd.) ANTONIO RODRIGUEZ.

Asstg. witnesses:

(Sgd.) JUAN P AYALA,
(Sgd.) ANTO. MA. ORTEGA,
(Sgd.) RAYMUNDO CARRILLO.

In continuation, and before me, the said alcalde, the measurers took a rope of hemp, and with a common Mexican vara measure they marked off fifty varas for the purpose of making the aforesaid measurement, and in testimony I signed it with rubric.

(Rubric of N. A. Den.)

On the same day, and in the aforesaid rancho, being about three o'clock, afternoon, I, the said alcalde, in order to proceed to the measurement of land which has to be made for Don Agustin Yansens, ordered those appointed measurers to place themselves in the Arroyo del Guijote, which serves as the boundary with Don Raymundo Carrello, and being placed in said arroyo they commenced the measurement, drawing the cordel in a westerly direction, and measured three hundred cordels, of fifty varas each, to which there is a tree with some marks which were made on it with an axe, which serves as a boundary; the measurement was then continued, drawing the corder from the river, which serves as a boundary of the Seminary College, to the foot of the sierra, in a southerly direction, and they measured fifty cordels, of fifty varas each, on account of which the said measurers declare that said rancho of the Purificacion contains three leagues in length, and half a

league in width; the title of grant accompanying this expediente; it being to be noticed that the width of said land is very unequal; and in testimony I signed it officially with the witnesses of my assistance, to which I certify.

(Sgd.) NICHOLAS A. DEN,
(Sgd.) JOSE M'A VALENZUELA,
(Sgd.) ANTONIO RODRIGUEZ.

Ass'tg witnesses:
(Sgd.) JUAN P. AYALA,
(Sgd.) ANTO. M'A ORTEGA,
(Sgd.) RAYMUNDO CARRELLO.

In the aforesaid rancho of the Purificacion, in the same day, month and year, Don Agustin Yansen, a resident of the port of Santa Barbara, accompanied by the alcalde and witnesses of these acts, said that the lands of this rancho having been measured, as appears by the preceding order, he takes and did take the true and corporal possession of said lands measured, for they belong to him, with just title which he obtains from the grant to him made of them by his excellency the constitutional governor of the department, Don Manuel Micheltorena, dated December 28th, eighteen hundred and forty-four. He entered upon and walked over them, pulled up grass, scattered handsful of earth, broke branches of trees and performed other acts and demonstrations of possession, in sign of that which he said he took of said lands; and I, the said alcalde, ordered that from that time forth he should be held and recognised as the true owner and possessor of them. And said Don Agustin Yansen prayed that, for a future memory and the preservation of his rights, there should be issued to him by me, the alcalde, a testimony of all the foregoing. And he signed it with me and those of my assistance, to which I certify.

(Signed) NICOLAS A. DEN,
(Signed) AGUSTIN YANSEN.

Assisting witnesses:
(Sgd.) JUAN P. AYALA,
(Sgd.) ANTO. M'A ORTEGA,
(Sgd.) RAYMUNDO CARRELLO.

Filed in office, June 10th, 1852.

GEO. FISHER, *Sec'y.*

Opinion.

AGUSTIN YANSEN vs. THE UNITED STATES. } Case No. 266.—Lomas de la Purificacion.

This is a claim for three leagues of land, situated in the county of Santa Barbara, which was granted to the present claimant by Governor Manuel Micheltorena, on the 28 of December, 1844, and judicial pos-

session of the same duly given by the proper officer on the 15 of April, 1845. The original grant and record of judicial possession are in evidence, and their genuineness proven by the deposition of Pablo de la Guerra. The record of juridical possession, together with map contained in the espediente in the archives, to which reference is made in the grant, a traced copy of which is filed in the case as sufficient for the location and identification of the land granted. The evidence in relation to the occupation of the land is, that in the year 1845 the claimant occupied the land with his cattle and servants, and in 1846 went there to live with his family, and has continued to reside there ever since; although there is no direct testimony that he built a house within a year, yet I think the evidence very clearly leads to that conclusion.

The grant is dated on the 28th of December, 1844, and the juridical possession on the following month of April. The inference from the proof is, that after obtaining the possession he placed his cattle and servants on the land and commenced building his house, which was completed during that year, and was occupied by himself and family in the succeeding one. This I consider a substantial compliance with the conditions of the grant, and, in connection with the other proofs in the case, sufficient to entitle the petitioner to a confirmation of his claim.

Filed in office, March 14th, 1854.

GEO. FISHER, *Sec'y.*

Decree.

AGUSTIN YANSEN vs. THE UNITED STATES. } No. 266.—Lomas de la Purificacion.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is valid; and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in the county of Santa Barbara, and is known by the name of Lomas de la Purificacion. It is three square leagues, a little more or less, in extent, and is bounded by the rancho of the college of Santa Ynez, by that of Raymundo Carrello, of the deceased Joaquin Villa, and by the sierra de San José, extending from the arroyo del Guijote, along the river Santa Ynez, three hundred cordels, of fifty varas each, to a tree marked as a corner, and from said river to the sierra—as will more fully appear by reference to the original grant, record of juridical possession, and maps filed in the case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, March 14th, 1854.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby

Ordered, that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing thirty-four pages, numbered from 1 to 34, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 266 on the docket of the said board, wherein Agustin Yansen is the claimant against the United States, for the place known by the name of "Lomas de la Purificacion."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

[G. F.]

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing 36 pages, numbered from 1 to 36, both inclusive, contain a full, true, and correct copy of transcript No. 266, filed in this office, wherein Augustin Yansens is appellee and the United States are appellants, for "Lomas de la Purificacion."

In witness whereof, I have hereunto set my hand and affixed the seal of the said court, at Los Angeles, California, this 20th day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

[L. S.]

C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

AUGUSTIN YANSENS, appellee, ads.
THE UNITED STATES, appellants.
} Docket No. 115. Transcript No. 266.

Be it remembered, that on the 8th day of November, A. D. 1855, in the district court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Augustin Yansens is the claimant against the United States, for the place named "Lomas de la Purificacion," was received and filed and docketed with No. 115, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Feb'y 27th*, 1855.

In case No. 115, Augustin Yansens for "Lomas de la Purificacion," notice of appeal from the Atty. General of the United States was filed.

(Vide page 3.)

LOS ANGELES, *Sept. 28th*, 1855.

In same case the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 28th*, 1855.

In same case the answer of Augustin Yansens was filed.

(Vide page 5.)

LOS ANGELES,

In the same case, the opinion of the court was delivered, confirming the claim, and the following decree was entered:

(Vide page 6.)

LOS ANGELES, *Oct. 18th*, 1855.

In same case, the following order was filed:

(Vide page 7.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, 17*th January*, 1855.

AUGUSTIN YANSENS
vs.
THE UNITED STATES. } 266.

Order of Appeal.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 12th day of October, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the U. States.

(Signed) C. CUSHING,
Attorney General.

Filed Feby. 27th, 1855.

C. E. CARR, *Clk.*

In the District Court of the United States for the southern district of California.

Hon. Isaac S. K. Ogier, Judge.

AUGUSTUS YANSENS
ads.
THE UNITED STATES. } No. 115.—Transcript No. 266.

Petition for Review.

The petition of Pacificus Ord, attorney of the United States, for and in behalf of the United States, respectfully represents, that on or about the 10th of June, A. D. 1852, Augustus Yansens petitioned the board of U. States land commissioners for the State of California, claiming the place called "Lomas de la Purificacion," in Santa Barbara county, of the extent of three square leagues, a little more or less; that on or about the 14th of March, A. D. 1854, the said commissioners confirmed the said claim; that on or about the 8th of November, A. D. 1854, the said commissioners caused a transcript of their proceedings and decision, with the evidence in said cause, to be filed in the office of the clerk of this honorable court; that on or about the 12th of October, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a certified transcript of the said proceedings, decision, and evidence in said cause from said commissioners; that thereafter, to wit, on or about the 27th of February, A. D. 1855, the said Attorney General filed, or caused to be filed, in said clerk's office a notice of the intention of the said United States to prosecute the appeal in said cause; that the land claimed is in the southern district of California, and within the jurisdiction of this honorable court. And the said United States denies generally that the said claimant has a valid title to the said land.

Wherefore, the petitioner prays, that the said Augustin Yansens or his attorney may be served with a copy of this petition; and that, after due proceedings had, the said decision of said commissioners in said cause may be reviewed, reversed, and set aside; and that the said claim or title may be decreed to be invalid. And general relief.

(Signed) P. ORD,
Attorney of the United States
for the southern dist. of California.

Filed Sept. 28th, 1855.
(Sig'd) C. E. CARR, *Cl'k.*
By J. W. ROSS, *Depy.*

In the U. States District Court for the southern district of California.

THE UNITED STATES, appellants,
vs.
AUGUSTIN YANSENS, appellee.
} No. 115.—Answer of Appellee.

Answer.

Augustin Yansens, appellee, appears by his attorneys, and for answer to the petition of the United States, filed herein, says:

That his title to the land called "Lomas de Purificacion," as set forth and described in his petition to the board of commissioners, and in the documentary and other evidence in this case, is a good and valid title; and he prays this honorable court to affirm the decision of the board of commissioners, and to decree his title to be valid.

(Signed) HALLECK, PEACHY & BILLINGS,
Attys. for Appellee.

Filed Sept. 28th, 1855.
(Signed) C. E. CARR, *Cl'k.*
By J. W. ROSS, *Depy.*

UNITED STATES DISTRICT COURT,
Southern District of California.

UNITED STATES, appellants,
vs.
AUGUSTIN YANSENS, appellee.
} No. 155.—Lomas de la Purificacion.

Decree.

This cause coming on to be heard at a stated term of said court, on an appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved 3rd March, 1851, on a transcript of the proceedings and decision, and of the papers and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the said decision be,

and the same is hereby, affirmed. And it is further ordered, adjudged, and decreed, that the claim of the said Augustin Yansens is a good and valid claim, and the same is hereby confirmed to the land described in the record to the extent of three square leagues, for a particular description of which reference will be made to the grant, record of judicial possession, and map of file in this case.

(Signed) M. HALL McALLISTER,
Judge circuit court U. S. for the district of California.

Filed October 3d, 1855.
(Signed) C. E. CARR, *Clk.*

In the U. States District Court for the southern district of California.

Special term, Sept. 1855.

Los Angeles.

Augustin Yansens, appellee, ads. The United States, appellants. } No. 115.—Transcript No. 266.

Order of Appeal.

On motion of P. Ord, Attorney of the United States for the southern district of California, it is ordered by the court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this court against the United States in the above entitled cause, rendered on or about the 3d day of October, A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Atty.

Filed Oct. 18, 1855.
(Signed) C. E. CARR, *Clk.*

United States District Court,
Southern District of California.

Clerk's Office, Los Angeles.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing 7 pages, numbered from 1 to 7, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said court, of the documentary evidence, and of the testimony of witnesses upon which the same is founded, on file in this office in case No. 115 on the docket of the said court, wherein Augustin Yansens is appellee and the United States are appellants, for "Lomas de la Purificacion."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this twentieth day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR, *Clk.*